IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3725 of 2004

Kanhu N. Padwa. ... Petitioner

V/s

State of Maharashtra and Ors..Respondents

Shri S.V.Sadavarte for Petitioner

Shri P.I.Khemani,AGP for Respondents

CORAM:S.A.BOBDE,J,

DATED:18th July 2005

P.C.:-

1. Rule, rule returnable forthwith. By consent heard forthwith.

2. The Petitioner challenges the order of the learned Minister upholding the order of refusal to renew the license of the Petitioner under Bombay Police Act on the ground inter alia that status of premises was uncertain in view of the dispute between the Petitioner and Municipal Council.

3. Admittedly this dispute though not finally resolved has resolved by the Appellate Court at the stage of temporary

injunction application. Admittedly this order was not before the learned Minister. Having regard to the fact that that order is certainly relevant, I am of view that the matter should be reconsidered after setting aside the impugned order which was passed without considering the order of the Civil Court which was not in existence then.

4. The matter is hereby remitted to the Licensing Authority for fresh decision in accordance with law.

(S.A.BOBDE,J.)

P.C.:-

. The challenge in this writ petition is to the order dated 5-4-2004 by which the appeal preferred by the Petitioner to the State Government has been dismissed. It is an admitted position that from the year 2003, the licence granted in favour of the Petitioner to run a hotel is not subsisting. By order dated 22-9-2003 the Sub Divisional Officer, Sub division, Pune declined to renew the licence in favour of the Petitioner. The said order was challenged by the Petitioner by preferring an appeal. The appeal has been dismissed by the Additional Collector, Pune. The appeal preferred by the Petitioner before the State Government against the order of Additional Collector, Pune has been dismissed by the impugned order.

2. This petition was on board on 6-5-2005 and order sheet shows that the same was adjourned beyond Vacation. On 10-5-2005, circulation of this writ petition was obtained before me in Vacation. The learned Advocate for the Petitioner states that after petition was adjourned on 6-5-2005, a liberty was granted to move the learned Vacation Judge. However, the said order is not noted on the order sheet.

3. As there is no subsisting licence in favour of the Petitioner, prayer for ad-interim relief permitting the Petitioner to carry on business of hotel cannot be granted.

Hence prayer for ad-interim relief is rejected.

(A.S.OKA,J.)